

Appl. No. : 10/762,209
Filed : January 20, 2004

REMARKS

This paper is in response to the Office Action dated January 13, 2006. Applicants have amended the application as set forth above. Specifically, Claims 1 and 29 have been amended. Upon the entry of the amendments, Claims 1-36 remain pending in this application. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the above amendments and the following remarks.

Discussion of Amendments

The amendments to Claims 1 and 29 are to clarify the invention and are supported by the original specification and drawings. The amendments are supported by, for example, Figures 1 to 4, 10, 11, 18, 19 and 22. As such, Applicants respectfully submit that the amendments are fully supported by the application as originally filed and do not add new matter. Applicants respectfully request the entry of the amendments.

Allowed Subject Matter

Applicants gratefully acknowledge the Examiner's notes that Claims 33-36 are allowed.

Discussion of Rejection Under 35 U.S.C. § 102

The Examiner rejected Claims 1, 2, 4, 6-10, 16-20, 23-25, 27-29, 31 and 32 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,115,886 to Fujita. Applicants respectfully submit that the rejected claims are not anticipated by Fujita as discussed below.

The Law of Anticipation

Anticipation under Section 102 can be found only if a reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775 (Fed. Cir. 1985). More particularly, a finding of anticipation requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). "To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

Disclosure of Fujita

Fujita discloses a hinge apparatus for use with a portable telephone. Figure 5 of Fujita illustrates a portable telephone 10 with two identical hinge apparatuses A and B. According to the illustration of Figures 6 and 7, each of the hinge apparatuses A and B is located near a corner of the microphone unit 11 and earphone unit 12 of the portable telephone 10. Each hinge apparatus A and B includes a shaft 1, a cam 6 and a slide cam 8. In operation, the slide cam 8 is slidable along the shaft 1, and the cam 6 is rotatable about the shaft 1. The components of the hinge apparatus A and B are inserted into attachment holes 11b and 12b which are formed in attachment portions 11a and 12a, respectively. The attachment portions 11a and 12a are integrally formed in the microphone and earphone units 11 and 12 of the portable telephone 10, respectively. See Figures 5 and 7 and Column 3, lines 24-46. Fujita does not teach or suggest a hinge device including a housing, which is separate from and is not part of the microphone unit 11 and earphone unit 12.

Claims 1 and 29

Claims 1 and 29 recite, among other features, a first unit, a second unit, a hinge device interconnecting the first and second units. Claim 1 further recites that a housing encloses at least one component of the hinge device and is separate from the first and second units. Claim 29 further recites a housing enclosing at least one component of the hinge device, wherein the housing is not a portion of the first unit or the second unit.

Fujita Does Not Disclose Every Element of the Claims

As noted above, Fujita does not teach or suggest a housing of a hinge device that is separate from two unit interconnected by the hinge device. Also, Fujita does not teach or suggest a housing of a hinge device that is not a portion of two units interconnected by the hinge device. Therefore, Fujita does not teach or suggest every element of Claim 1 or 29. Accordingly, Fujita does not anticipate Claim 1 and its dependent claims, Claims 2, 4, 6-10, 16-20, 23-25, 27 and 28. Also, Fujita does not anticipate Claim 29 and its dependent claims, Claims 31 and 32. Applicants respectfully request that the rejection of Claims 1, 2, 4, 6-10, 16-20, 23-25, 27-29, 31 and 32 be withdrawn.

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Discussion of Rejection Under 35 U.S.C. § 103

The Examiner rejected Claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Fujita in view of U.S. Patent No. 5,732,331 to Harms. However, Applicants respectfully submit that Claims 21 and 22 are patentable over the references alone and in combination as discussed below.

Standard for Obviousness Rejection

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). To establish a *prima facie* case of obviousness, three basic criteria must be met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143.

Disclosure of Harms

Harms discloses a portable radio having a detachable flip unit and a hinge 30. The hinge of this portable radio includes a slot 34 integrally attached to main unit 12 and a rod 36 integrally attached to flip unit 14. See Figures 3 and 4, and column 1, lines 16-25. The rod 36 is securable and rotatable within the slot 36. However, Harms does not teach or suggest a housing of the hinge that is movable relative both of the main unit 12 and the flip unit 14.

Prima Facie Case Has Not Been Established

Claims 21 and 22 depend from Claim 1 and therefore incorporate all the features of Claim 1, including a housing that encloses at least one component of the hinge device and is separate from the first and second units. As discussed above in connection with the rejection under section 102, Fujita fails to teach or suggest these features of Claim 1. Nor does Harms remedy the deficiency of the Fujita. As such, the references alone and in combination do not teach or suggest all the limitations of Claim 1, and therefore Claims 21 and 22. Therefore, no *prima facie* case of obviousness has been established. Applicants respectfully request withdrawal of the rejection.

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Discussion of Examiner's Comments on the Claim Term "Movable"

In the Office Action at page 7, the Examiner asserted that the phrase "housing movable relative to both the first and second units" is not a positive limitation and is not given patentable significance. Applicants respectfully disagree with the Examiner's assertion. Applicants respectfully submit that the phrase defines a structural relationship of the housing with the first and second units and therefore should be given patentable weight. However, solely in order to expedite the prosecution of the application, Applicants have deleted the term "movable."


CONCLUSION

The Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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